

Introduced by

Representatives Maragos, Anderson

Senator Klein

1 A BILL for an Act to create and enact chapter 23-20.6 of the North Dakota Century Code,
2 relating to the intrastate use of thorium.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 23-20.6 of the North Dakota Century Code is created and enacted as
5 follows:

6 **23-20.6-01. Definitions.**

7 As used in this chapter, unless context otherwise requires:

- 8 1. "Molten fluid fueled reactor" means any reactor based off a molten fluid fueled design,
9 including thorium-based fuels.
10 2. "Thorium refinery" means those operations removing thorium from rare earth element
11 and other tailings.

12 **23-20.6-02. Operation of thorium refineries and utilization facilities - Legislative**
13 **declaration - Intrastate commerce only.**

- 14 1. The state department of health shall administer this chapter.
15 2. The department shall issue a permit to operate a refinery in this state producing
16 thorium that is used commercially or privately in this state and which is consumed or
17 otherwise remains within the borders of this state if the department has certified that
18 the refinery is compliant with all applicable state laws. In addition, the department shall
19 issue a permit to a facility in this state which uses molten fluid fueled reactors
20 commercially or privately in this state which remain within the borders of this state if
21 the department has certified that the facility is compliant with all applicable state laws.
22 3. The legislative assembly declares that the United States environmental protection
23 agency and nuclear regulatory commission, acting under the color of authority of
24 Congress to regulate interstate commerce, lacks the authority to deny permits of

- 1 operation to thorium refineries and facilities permitted in subsection 2 because the
2 products of these refineries and facilities have not traveled in interstate commerce.
- 3 4. This chapter applies only to the issuance of a permit of operation to a thorium refinery
4 or a facility that uses molten fluid fueled reactors, for which the issuance of a permit is
5 required by the Atomic Energy Act of 1954, or the Energy Reorganization Act of 1974,
6 or both, or by another equivalent state or federal statute.
- 7 5. Nothing in this section limits the effect of any other state or federal statute or
8 regulation.
- 9 6. Although this chapter acknowledges the authority and responsibility with respect to
10 "existing and current" regulation behind article II, section (A), of the April 15, 1969,
11 agreement between this state and the commission as it relates to interstate
12 commerce, the department may not recognize any regulation that is "existing and
13 current" as it relates directly and distinctly to a molten fluid fueled reactor commercially
14 or privately, or as it pertains to specific intrastate commerce under federal law.
- 15 7. As per the agreement, the department shall request the commission to formulate state
16 or federal regulations for a molten fluid fueled reactor.